

any of the entities described in subparagraphs (A) and (B) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

“(9) PATENT INFRINGEMENT.—The term ‘patent infringement’ means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

“(10) PATENT INFRINGEMENT CLAIM.—The term ‘patent infringement claim’ means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.

“(11) STATUTORY EXCLUSIVITY.—The term ‘statutory exclusivity’ means those prohibitions on the approval of drug applications under clauses (ii) through (iv) of section 505(c)(3)(E) (5- and 3-year data exclusivity), section 527 (orphan drug exclusivity), or section 505A (pediatric exclusivity) of the Federal Food, Drug, and Cosmetic Act.”

(b) EFFECTIVE DATE.—Section 28 of the Federal Trade Commission Act, as added by this section, shall apply to all agreements described in section 28(a)(1) of that Act entered into after November 15, 2009. Section 28(g) of the Federal Trade Commission Act, as added by this section, shall not apply to agreements entered into before the date of enactment of this title.

#### SEC. 03. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note) is amended by—

(1) striking “the Commission the” and inserting the following: “the Commission—

“(1) the”;

(2) striking the period and inserting “; and”;

(3) inserting at the end the following:

“(2) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).”

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

“(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: ‘I declare that the following is true, correct, and complete to the best of my knowledge: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.’”

#### SEC. 04. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505(j)(5)(D)(i)(V) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting “section 28 of the Federal Trade Commission

Act or” after “that the agreement has violated”.

#### SEC. 05. COMMISSION LITIGATION AUTHORITY.

Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (D), by striking “or” after the semicolon;

(2) in subparagraph (E), by inserting “or” after the semicolon; and

(3) inserting after subparagraph (E) the following:

“(F) under section 28;”.

#### SEC. 06. STATUTE OF LIMITATIONS.

The Commission shall commence any enforcement proceeding described in section 28 of the Federal Trade Commission Act, as added by section 3, except for an action described in section 28(g)(2) of the Federal Trade Commission Act, not later than 3 years after the date on which the parties to the agreement file the Notice of Agreement as provided by sections 1112(c)(2) and (d) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (21 U.S.C. 355 note).

#### SEC. 07. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such title or amendments to any person or circumstance shall not be affected thereby.

### NOTICE OF HEARING

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, June 22, 2010, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on policies to reduce oil consumption through the promotion of accelerated deployment of electric-drive vehicles, as proposed in S. 3495, the Promoting Electric Vehicles Act of 2010.

For further information, please contact Mike Carr or Abigail Campbell.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on June 16, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ARMED SERVICES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 16, 2010, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on June 16, 2010, at 11 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 16, 2010, at 9:30 a.m., to hold a hearing entitled “The New START Treaty (Treaty Doc. 111-5): Views from the Pentagon.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON VETERANS’ AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on June 16, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on June 16, 2010, from 2–5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs’ Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on June 16, 2010, at 3 p.m. to conduct a hearing entitled, “The Gulf of Mexico Oil Spill: Ensuring a Financially Responsible Recovery.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate to conduct a hearing on June 16, 2010, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PRIVILEGES OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Juliana